



STATE OF MARYLAND

DHMH

PT 37-06

Office of Health Services
Medical Care Programs

Maryland Department of Health and Mental Hygiene

201 W. Preston Street • Baltimore, Maryland 21201

Robert L. Ehrlich, Jr., Governor – Michael S. Steele, Lt. Governor – S. Anthony McCann, Secretary

MARYLAND MEDICAL ASSISTANCE PROGRAM

Medical Supply and Equipment Transmittal No. 61

June 28, 2006

TO: Disposable Medical Supplies/Durable Medical Equipment Providers

FROM:  Mark A. Leeds, Director
Long Term Care and Community Support Services

NOTE: Please ensure that appropriate staff members in your organization are informed of the contents of this transmittal.

SUBJECT: Proposed Amendments to Disposable Medical Supplies/Durable Medical Equipment Services

ACTION:
Proposed Regulations

EFFECTIVE DATE:

WRITTEN COMMENTS:
Michele Phinney, 201 West Preston Street
Baltimore, Maryland 21201
Fax 410-333-7667
Call 410-767-6499

PROGRAM CONTACT PERSON
Jane Sacco, Chief
Division of Community Support
Services
410-767-1739

COMMENT PERIOD EXPIRES: July 24, 2006

The Maryland Medical Assistance Program proposes to amend Regulations .01, .03, .04, .05, and .07 under COMAR 10.09.12, Disposable Medical Supplies/Durable Medical Equipment. These amendments serve three purposes:

- 1) Permit the Department, at its discretion, to provide selected services through one or more contractors selected through and at rates established through the State's procurement process;
- 2) Set reimbursement for enteral and parenteral nutrition supplies at 100 percent of the Medicare fee schedule rate; and

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3) Expand the provision of equipment for primary use in school and the workplace.

The proposed amendments, as published in the June 23, 2006 issue of the Maryland Register, are attached.

Attachment

Economic Impact on Small Businesses

The proposed action has minimal or no economic impact on small businesses.

Impact on Individuals with Disabilities

The proposed action has an impact on individuals with disabilities as follows:

The proposed action will affect rates paid to providers of services to individuals with disabilities. No impact on access or availability of services is expected.

Opportunity for Public Comment

Comments may be sent to Michele Phinney, Regulations Coordinator, Department of Health and Mental Hygiene, 201 W. Preston Street, Room 521, Baltimore, Maryland 21201, or fax to (410) 333-7687, or email to regs@dhhm.state.md.us, or call (410) 767-6499 or 1-877-4MD-DHMH, extension 6499. Comments must be received by July 24, 2006.

.08 Rate Calculation — Administrative and Routine Costs.

A. — G. (text unchanged)

H. For services during the period of July 1, 2006 — June 30, 2007, the interim per diem rate for the Administrative and Routine cost center shall include an additional \$1.35 for nursing facilities that maintain kosher kitchens throughout the entirety of that period.

.09 Rate Calculation — Other Patient Care Costs.

A. — G. (text unchanged)

H. For services during the period of July 1, 2006 — June 30, 2007, the interim per diem rate for the Other Patient Care cost center shall include an additional 76 cents for nursing facilities that maintain kosher kitchens throughout the entirety of that period.

S. ANTHONY McCANN
Secretary of Health and Mental Hygiene

Subtitle 09 MEDICAL CARE PROGRAMS**10.09.12 Disposable Medical Supplies and Durable Medical Equipment**

Authority: Health-General Article, §§2-104(b), 15-103, 15-105, and 15-129, Annotated Code of Maryland

Notice of Proposed Action

[06-141-P]

The Secretary of Health and Mental Hygiene proposes to amend Regulations .01, .03, .04, .05, and .07 under **COMAR 10.09.12 Disposable Medical Supplies and Durable Medical Equipment**.

Statement of Purpose

The purpose of this action is to: (1) permit the Department, at its discretion, to provide selected services through one or more contractors selected through and at rates established through the State's procurement process; (2) set reimbursement for enteral and parenteral nutrition supplies at 100 percent of the Medicare fee schedule rate, and (3) expand the provision of equipment for primary use in school and the workplace.

Comparison to Federal Standards

There is no corresponding federal standard to this proposed action.

Estimate of Economic Impact

I. Summary of Economic Impact. The proposed action will reduce the Department's expenditures for fee-for-service medical equipment and supplies by \$2,600,000 (\$1,300,000 general funds and \$1,300,000 federal funds) during FY 2007.

II. Types of Economic Impact.

| | Revenue (R+/R-) | Expenditure (E+/E-) | Magnitude |
|---|--------------------|------------------------|-------------|
| A. On issuing agency: | (E-) | | \$2,600,000 |
| B. On other State agencies: | NONE | | |
| C. On local governments: | NONE | | |
| | Benefit (+) | Cost (-) | Magnitude |
| D. On regulated industries or trade groups: | (-) | | \$2,600,000 |
| E. On other industries or trade groups: | NONE | | |
| F. Direct and indirect effects on public: | NONE | | |

III. Assumptions. (Identified by Impact Letter and Number from Section II.)

A. and D. The FY 2007 projected Departmental expenditure for enteral and parenteral supplies is \$5,000,000. The proposed action for reducing reimbursement rates will reduce this expenditure by \$1,800,000. The projected expenditure for incontinence supplies for FY 2007 is \$8,400,000. The proposed action for contracting services will reduce this expenditure by \$1,500,000. Expenditures for medical equipment for FY 2007 are projected to be \$7,900,000. The proposed expansion of equipment for work and school will increase expenditures by \$800,000; however, this increase will be offset by an expected savings of \$100,000 by the proposed contracting of services. (Expenditure reductions \$1,800,000 + \$1,500,000 + \$100,000 = \$3,400,000 - Expenditure increase \$800,000 = \$2,600,000).

In summary, the cost savings realized from the proposed action will reduce overall expenditures for medical equipment and supplies by approximately \$2,600,000. Fifty percent (\$1,300,000) of this amount is federal funds.

Economic Impact on Small Businesses

The proposed action has minimal or no economic impact on small businesses.

Impact on Individuals with Disabilities

The proposed action has an impact on individuals with disabilities as follows:

The proposed amendments expanding the provision of equipment for primary use in school or the workplace will enable individuals with disabilities to attain greater independence and access to school and workplace facilities. The proposed amendments regarding the use of contractors to provide services may limit individuals' choice of supply or equipment provider, but is not expected to negatively affect individuals' ability to access services. Likewise the proposed amendments regarding recycling of equipment may limit individuals' choice of provider, but is not expected to negatively affect individuals' ability to access services.

Opportunity for Public Comment

Comments may be sent to Michele Phinney, Regulations Coordinator, Office of Regulation and Policy Coordination, Department of Health and Mental Hygiene, 201 W. Preston Street, Room 521, Baltimore, Maryland 21201, or call (410) 767-6499 or 1-877-4MD-DHMH, extension 6499, or fax to (410) 333-7687, or email to regs@dhhm.state.md.us. Comments will be accepted through July 24, 2006.

.01 Definitions.

A. (text unchanged)

B. Terms Defined.

(1) — (4) (text unchanged)

(5) "Durable medical equipment" means equipment which satisfies all of the following requirements:

(a) (text unchanged)

(b) It is used to serve a medically necessary purpose;

and

[(c) It is appropriate for use in the home; and]

[(d)] (c) (text unchanged)

(6) — (22) (text unchanged)

.03 Conditions for Participation.

To participate in the Program, the provider:

A. — F. (text unchanged)

G. Shall participate in the Program's recycling efforts as set forth in Regulation [.07L] .07O of this chapter.

.04 Covered Services.

A. The following medically necessary items are covered when ordered by a prescriber:

(1) Disposable medical supplies [used in the home];

(2) Durable medical equipment [to be used in the recipient's home];

(3) — (5) (text unchanged)

(6) Replacement of prostheses; [and]

(7) Individually form-fitted support stockings, leg or arm, [used in the recipient's home,] including all fitting, dispensing, and follow-up care, for recipients for whom these supports are medically necessary, not to exceed two at one time, three times in a 12-month period[.] for recipients 21 years old or older, and

(8) Evaluation for equipment that was subsequently provided through the Department's recycling program as described in Regulation .07O of this chapter.

B. The items in §A of this regulation are covered when medically necessary for use in the recipient's:

(1) Home;

(2) School; or

(3) Place of employment.

C. Repairs under §A(3) of this regulation are also covered for recipients in hospitals, nursing facilities, and other medical institutions for equipment that was purchased for the recipient while the recipient lived in the community.

D. Items in §A(5) and (6) of this regulation are also covered for recipients in hospitals, nursing facilities, and other medical institutions.

[B.] E. (text unchanged)

F. The Department may arrange for the provision of any covered service listed in §A of this regulation under an exclusive contract with a vendor or vendors that has been awarded in accordance with State regulations and policies governing contracts and procurements.

.05 Limitations.

The Program does not cover:

A. — I. (text unchanged)

J. [Two or more similar pieces of equipment for the same recipient unless prepayment authorization has been obtained] Equipment if the recipient owns or otherwise has access to useable equipment that serves the same purpose as the requested equipment;

K. — L. (text unchanged)

M. Rental of equipment for any period longer than 90 days without renewed documentation of continued medical need from the prescriber for each 90-day period[.]; and

N. Modifications to motor vehicles.

.07 Payment Procedures.

A. — E. (text unchanged)

F. The Department shall reimburse providers for the purchase of covered services at the lowest of the provider's customary charge or:

(1) For items for which Medicare has established a rate:

[(a) Enteral and parenteral supplies at the greater of 67 percent of the Program's reimbursement rate approved as of July 2004, or 100 percent of the Medicare rate;]

[(b)] (a) [All other disposable] Disposable medical supplies and durable medical equipment at 100 percent of the current Medicare purchase reimbursement rate; and

[(c)] (b) (text unchanged)

(2) (text unchanged)

G. — M. (text unchanged)

N. If services are provided under a contract pursuant to Regulation .04F of this chapter, the Department shall reimburse the contracted vendor or vendors at rates and under conditions in accordance with the contract or contracts.

[N.] O. Once an item has been purchased in full, then title to the equipment shall remain with the Department, and the equipment, after use by the recipient, shall be recovered by the [provider] Department or its designee. The Department may arrange for the provision of recycled equipment under an exclusive contract with a vendor or vendors that has been awarded in accordance with State regulations and policies governing contracts and procurement. The Department also may determine the geographical scope and the types of equipment, or both, to be included under the contract. The vendor or vendors shall be reimbursed at a rate and under terms established in the contract. [After recovery of the equipment, the provider shall determine the viability of recycling the item, and upon its reissue, bill the Program 75 percent of the Program's original payment.]

P. For equipment that is not covered under a contract awarded under §O of this regulation, the provider that originally furnished the equipment to the recipient shall recover the equipment after it is no longer required by the recipient. After recovery of the equipment, the provider shall determine the viability of recycling the item and, upon its reissue, bill the Program 75 percent of the Program's original payment.

Q. To the extent that the Department chooses to use an exclusive contract to provide recycled equipment under §O of this regulation, the Department shall reimburse providers for evaluation of a recipient for equipment that is subsequently provided through the Department's recycling program at 11.5 percent of the reimbursement rate established under §§A — H of this regulation.

[O.] R. — [T.] W. (text unchanged)

S. ANTHONY McCANN
Secretary of Health and Mental Hygiene

Subtitle 14 CANCER CONTROL

10.14.05 Maryland Cancer Fund

Authority: Health-General Article, §20-117; Tax-General Article, §2-112;
Annotated Code of Maryland

Notice of Proposed Action

[06-140-P]

The Secretary of Health and Mental Hygiene proposes to adopt new Regulations .01 — .16 under a new chapter, CO-MAR 10.14.05 Maryland Cancer Fund.